

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.	:	Case Number: 04-CV-2688
	:	Judge Jones
	:	(Filed electronically)
vs.	:	
	:	
DOVER AREA SCHOOL DISTRICT; DOVER	:	MOTION TO QUASH
AREA SCHOOL DISTRICT BOARD OF	:	SUBPOENA OR FOR
DIRECTORS	:	PROTECTIVE ORDER

ORDER

AND NOW, this ____ day of _____, 2005, upon consideration of the Motion to Quash or for Protective Order filed by Joseph Maldonado and Heidi Bernhard-Bubb, it is hereby **ORDERED** and **DECREED** that the Subpoenas issued by Defendants are **QUASHED**. Notice of the Entry of this Order shall be given to all parties as prescribed by law.

BY THE COURT:

J.

EXHIBIT "A"

AFFIDAVIT

I, Joseph Maldonado, do hereby swear and affirm that the information contained in the attached articles: "Dover Schools Still Debating Biology Text," published in the York Daily Record on June 9, 2004, correctly and accurately sets forth the information and quotations contained therein; and "Book is Focus of More Debate," published in the York Daily Record on June 15, 2004, correctly and accurately sets forth the information and quotations contained therein.

This Affidavit also applies to any other articles written by the undersigned Affiant and published in the York Daily Record on the subject of the Dover School Board as to the issue of "intelligent design." All of the information contained in such articles is true to the best of my knowledge and belief.

Any quotes contained in the June 9, 2004 and June 15, 2004 articles as they address Dover School Board members were secured by the Affiant at or following the Dover School Board meetings addressed by those articles, with other members of the Dover School Board and/or the public present. The undersigned Affiant believes that at the Dover School Board meetings referred to in the June 9, 2004 and June 15, 2004 articles the Dover School Board had a tape recorder present recording all statements made by Dover School Board members and members of the general public during the course of said meetings.

The undersigned Affiant swears and affirms that at every Dover School Board meeting he has attended the Dover School Board made a "sign in sheet" available on which members of the general public signed in upon entering each such meeting. Therefore, it would be the belief of the Affiant that the persons present at said Board meetings would be reflected on said "sign in" sheets.

The undersigned Affiant swears and affirms that he does not possess any notes or drafts of stories in connection with any articles published in the York Daily Record on the subject of the Dover School Board as to the issue of "intelligent design." The undersigned Affiant further swears and affirms that he has not received any requests to "retract" or "correct" the articles referenced hereinabove. However, the Affiant is aware of one correction made involving the identification of an individual as "board president" when the said individual should have been identified as the "former board president."

/s/ Joseph Maldonado
Joseph Maldonado
Reporter
York Daily Record

COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF YORK :

On this, the 2nd day of June, 2005, before me, the undersigned officer, personally appeared Joseph Maldonado, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same as his free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

/s/ Shuna K. Thompson
Notary Public

AFFIDAVIT

I, Randy Parker, Managing Editor, do hereby swear and affirm that the York Daily Record has not received any requests to retract or correct anything in any articles written by Joseph Maldonado and published in the York Daily Record on the subject of the Dover School Board as to the issue of “intelligent design.”

/s/ Randy Parker
Randy Parker
Managing Editor
York Daily Record

Sworn to and subscribed
before me this 31st day
of May, 2005.

/s/ Donna A. Mandl
Notary Public

AFFIDAVIT

I, Heidi Bernhard-Bubb, do hereby swear and affirm that the information contained in any articles written by me and published in The York Dispatch on the subject of the Dover School Board as to the issue of “intelligent design” correctly and accurately sets forth the information and quotations contained therein, including, without limitation, the information and quotations contained in the June 8, 2004 article “Dover Debates Evolution in Biology Text,” the June 9, 2004 article “Group: Dover Schools Could Face Lawsuit” and the June 15, 2004 article “Church, State Issue Divides.”

Any quotes which relate to Dover School Board meetings and contained in articles written by the undersigned Affiant as they address Dover School Board members, including, without limitation, any quotes contained in the June 8, 2004 article “Dover Debates Evolution in Biology Text,” the June 9, 2004 article “Group: Dover Schools Could Face Lawsuit” and the June 15, 2004 article “Church, State Issue Divides,” were secured either during or immediately subsequent to Dover School Board meetings which occurred in a public arena. The undersigned Affiant believes that at the Dover School Board meetings referred to in articles written by her, the Dover School Board had a tape recorder present recording all statements made by Dover School Board members and members of the general public during the course of said meetings.

The undersigned Affiant swears and affirms that at every Dover School Board meeting she has attended the Dover School Board made a “sign in sheet” available on which members of the general public signed in upon entering each such meeting. Therefore, it would be the belief of the Affiant that the persons present at said Board meetings would be reflected on said “sign in” sheets.

The undersigned Affiant further swears and affirms that she has not received any requests to “retract” or “correct” the articles referenced hereinabove except one request from the ACLU unrelated to any Dover School Board meetings and interviews with Dover School Board members and members of the public in connection with the subject matter of “intelligent design.” Said request pertained to the time frame in which the ACLU and related parties intended to file suit in Federal court.

/s/ Heidi Bernhard-Bubb
Heidi Bernhard-Bubb
Reporter
The York Dispatch

COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF YORK :

On this, the 3rd day of June, 2005, before me, the undersigned officer, personally appeared Heidi Bernhard-Bubb, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same as her free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

/s/ Shuna K. Thompson
Notary Public

AFFIDAVIT

I, Lori Goodlin, Editor, do hereby swear and affirm that The York Dispatch has not received any requests to retract or correct anything in any articles written by Heidi Bernhard-Bubb and published in The York Dispatch on the subject of the Dover School Board as to the issue of “intelligent design.”

/s/ Lori Goodlin
Lori Goodlin
Editor
The York Dispatch

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF YORK :

On this, the 2nd day of June, 2005, before me, the undersigned officer, personally appeared Lori Goodlin, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same as her free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

/s/ Shuna K. Thompson
Notary Public